

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Javon Stephon Harris,
10 Plaintiff,

11 v.

12 Centurion Health, et al.,
13 Defendants.
14

No. CV-22-00447-TUC-RM

ORDER

15 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42
16 U.S.C. § 1983. (Doc. 1.) Pending before the Court is Plaintiff's Motion to Appoint
17 Counsel. (Doc. 12.) Plaintiff avers appointment of counsel is warranted because (1) she
18 is incarcerated with limited access to legal resources, (2) she has a high likelihood of
19 success on the merits of her claims, (3) the case is complex, and (4) her mental health
20 diagnoses hinder her ability to represent herself. (*Id.*)

21 There is no constitutional right to the appointment of counsel in a civil case. *See*
22 *Ivey v. Bd. of Regents of the Univ. of Alaska*, 673 F.2d 266, 269 (9th Cir. 1982). In
23 proceedings in forma pauperis, the court may request an attorney to represent any person
24 unable to afford one. 28 U.S.C. § 1915(e)(1). Appointment of counsel under 28 U.S.C. §
25 1915(e)(1) is required only when "exceptional circumstances" are present. *Terrell v.*
26 *Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). A determination concerning exceptional
27 circumstances requires an evaluation of the likelihood of success on the merits and the
28 ability of Plaintiff to articulate hers claims pro se in light of the complexity of the legal

1 issue involved. *Id.* “Neither of these factors is dispositive and both must be viewed
2 together before reaching a decision.” *Id.* (quoting *Wilborn v. Escalderon*, 789 F.2d
3 1328, 1331 (9th Cir. 1986)).

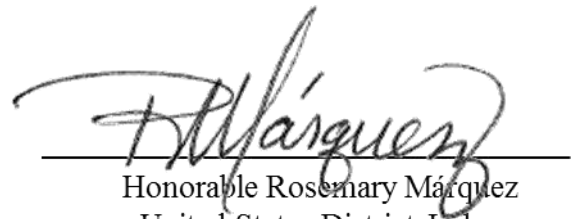
4 Having considered both elements, it does not appear that exceptional
5 circumstances are present that would require the appointment of counsel at this time. *See*
6 *Wilborn*, 789 F.2d at 1331. Courts have not found that the typical impediments faced by
7 incarcerated pro se plaintiffs constitute exceptional circumstances entitling them to
8 appointment of counsel. *See Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). Most
9 of Plaintiff’s expressed impediments to representing herself are common, not exceptional,
10 circumstances. While the Court is sympathetic to Plaintiff’s mental health challenges,
11 Plaintiff’s filing indicates she is prescribed medications to treat her diagnoses. (*See Doc.*
12 *12-1.*) Plaintiff does not allege that the medication or her mental health issues render her
13 incapacitated. Furthermore, a review of the docket reflects that Plaintiff has thus far been
14 able to articulate her claims. Finally, at this stage of the proceedings, before any
15 dispositive motions have been resolved, Plaintiff has not demonstrated a likelihood of
16 success on the merits.

17 Accordingly,

18 **IT IS ORDERED** that Plaintiff’s Motion to Appoint Counsel (Doc. 12) is **denied**.

19 Dated this 25th day of March, 2024.

20
21
22
23
24
25
26
27
28



Honorable Rosemary Márquez
United States District Judge